MONTANA LEGISLATIVE HISTORY

Chapter 81 1971

Bill H 249 S _____ Original bill & history ____C

H. Committee on Townships & Counties

Hearing Date(s) Jan 21 ✓ C

Jan 28 ✓ C

_____ ____C

_____ ____C

Date Out _____ ____C

S. Committee on Local Government

Hearing Date(s) Feb 16 ✓ C

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Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

January 23, 1971
Proceedings of the
TOWNSHIPS AND COUNTIES COMMITTEE

Chairman Arnold Falkenstern called the meeting to order at 10:30 a.m. The secretary called the roll, nine members present with Rep. Perry and Rep. Selstad absent.

HOUSE BILL 247: Rep. Orphey Lien, District 4, Chief Sponsor
This legislation would amend the codes in regard to qualifications and tenure of deputy sheriffs.

PROPONENTS: Don Garrity, Montana Sheriffs & Peace Officers Assoc.
Dave Middlemas, Sheriff's Association
James Eichler, Montana Sheriff's

Proponents stated that this would upgrade the law enforcement profession and make it more desireable as a career. It would give those engaged in law enforcement some security of profession and encourage careers in this field.

HOUSE BILL 318: Rep. Walter Ulmer, District 7, Chief Sponsor
This legislation would require the County Commissioners to furnish sheriffs and deputies with uniforms which would add to their effectiveness. Uniforms would be uniform throughout the state in accordance with uniform style chosen by the Sheriffs & Peace Officers Association.

The same people who spoke as proponents on H.B. 247 supported the uniforms as well.

HOUSE BILL 252: Rep. J. D. Lynch, District 23, Chief Sponsor.
This legislation would provide for a 40 hour week for deputies. Policemen have a 40 hour week. In some places deputies may work as much as 14 days straight, working without a day off. Rep. Lynch contended that deputies are entitled to the same considerations [illegible] counties.

January 28, 1971
Proceedings of the
TOWNSHIPS AND COUNTIES COMMITTEE

Chairman Arnold Falkenstern called the meeting to order at 10:30 a.m. The secretary called the roll, eight members present with Representatives Nichols, Selstad and Harper absent.

HOUSE BILL 247: Rep. Lien District 4, Chief Sponsor

This legislation would extend tenure and qualifications to deputy sheriffs in all classes of counties. The sponsor pointed out that this does not apply to undersheriffs who must depend on the re-election of the sheriff to secure his position. This would give the deputy protection and yet he could be fired for reasonable cause.

PROPONENT: Don Garrity - Montana Police Officers Association.

Presently not only , in classes 4 through 7, do they not have tenure but there are no specified qualifications for deputy sheriff. Mr. Garrity said the Police Officers Association felt this would upgrade the profession and make it more desireable to pursue a career in law enforcement.

HOUSE BILL 258: Rep. Walter J. Ulmer, District 7, Chief Sponsor

This bill relates to the methods of assessment of special improvement districts. This would allow for charging on a lineal feet basis or upon a unit charge basis.

There were no proponents or opponents to this bill.

HOUSE BILL 355: Rep. James Burnett, District 13, Chief Sponsor.

Mr. Burnett states that this legislation would give County Commis-
[illegible] prerogative of buying a car for the use of the sheriff's
Commissioners may at the

Mrs. Henry Barber, League of Women

No opponents appeared against this bill.

Proponents stated that much urbanization is occuring outside of the city limits and there is no provision now for building permits. If people apply for a building permit, they should be notified by the county if they are preparing a building near a right of way or too close to a right of way and they will know if they are in violation of zoning codes of County Planning Boards before it is too late and a lawsuit might ensue. There is no charge for the permit, but a penalty for not getting one.

EXECUTIVE SESSION:

HOUSE BILL 247: Rep. Kendall moved a Do Pass, seconded by Rep. Mehrens. Motion carried - DO PASS.

HOUSE BILL 258: Rep. Worden moved Do Pass. Motion carried - DO PASS.

HOUSE BILL 355: Rep. Lombardi Moved Do Pass, seconded by Rep. Hodges. Rep. Kendall made a substitute motion to amend the bill be taking out the 15 cents whevereve. it appears and in sering in lieu thereof 11 cents. Motion to amend carried. Rep. Lombardi moved to Do Pass As Amended. Motion carried - DO PASS AS AMENDED.

306

[illegible] started on the airport in Bigfork. [illegible] the bonds purchased, one half million dollars w[illegible]s, but that the repairment could not be finished until bonds were sold.

Mr. John Morrison, representing private architects, testified in favor of the bill. He stated that the communities in which he and others worked were unable to sell the bonds.

Mr. Smith said that he hoped that the committee would favorably consider House Bill 15 after it was amended.

There being no opponents, the proponents were thanked for their information and were excused.

HB 208

Representative Cox, prime sponsor of the bill, presented the bill to the committee. (A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR REMOVAL OF ELECTIVE OFFICERS OF CITIES AND TOWNS UNDER A MAYOR-COUNCIL FORM OF GOVERNMENT AND TO AMEND SECTIONS 11-721, AND 11-1013, R.C.M. 1947, PERTAINING TO REMOVAL OF OFFICERS.") Mr. Cox stated that this is in effect in many other states and should be used in Montana.

Representative Robbins asked for approval on this bill. He told the committee that this was a follow-up on HB 14. Mr. Mizner said that the League of Cities and Towns supported the bill.

HB 247

Representative Lien presented the bill to the committee. (A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 16-3705, R.C.M., 1947, RELATING TO QUALIFICATIONS AND TENURE OF DEPUTY SHERIFFS.") Mr. Lien informed the members that this bill was necessary for effective operation and also for attaining qualified deputies.

Senate Local Govt Feb 16

Mr. Don Garrity, representing the Montana Sheriff and Peace Officers Association, testified in support of the bill, saying that the bill would provide for necessary training, compensation and tenure.

HB 332

Representative Lanthorn presented the bill to the committee members. (A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING SECTION 94-35-138 WHICH MAKES IT A MISDEMEANOR TO ENCOURAGE OR PERMIT A MINOR UNDER SIXTEEN (16) YEARS OF AGE TO BE IN A PUBLIC DANCE HALL.")
Mr. Lanthorn informed the members that the bill merely repeals unnecessary laws on the books.

The proponents and opponents were then thanked and excused.

HB 332

Senator Bertsche moved that HB 332 BE CONCURRED IN. Senator Lynch seconded the motion. MOTION CARRIED.

HB 247

Senator Lynch moved that HB 247 BE CONCURRED IN. Senator Lowe seconded the motion. MOTION CARRIED.

HB 198

Senator Lynch moved that HB 198 BE CONCURRED IN. Senator Bertsche seconded the motion. MOTION CARRIED.

[illegible] moved that HB 208 BE CONCURRED IN. Senator Bertsche [illegible]

earmarked revenue fund, payable to the order of the individual qualified volunteer fireman; provided, however, that in the event of the death of any *otherwise* qualified volunteer fireman *before reaching the age of fifty-five (55) years, or in the event of the death of any such volunteer fireman after he has qualified for payments hereunder but before he has received payments hereunder totaling at least two thousand dollars ($2,000);* and if such deceased volunteer fireman shall have left a widow, *then such pension shall be paid or continue to be paid to said widow* by a warrant or warrants drawn upon the earmarked revenue fund and payable to the order of said widow, *until her death or remarriage; or if said deceased volunteer fireman shall have left no widow but shall have left a child or children under the age of eighteen (18) years, then such pension shall be paid or continue to be paid* to the guardian or other person having custody of the said child or children, *until the youngest child shall reach* the age of eighteen *(18)* years. *Provided, further, that in the event of such payments after the death of a volunteer fireman, to or for his widow or children, then such pension shall terminate, and no further payments shall be made hereunder, when a total of two thousand dollars ($2,000) shall have been paid upon such pension, including any payments made to the volunteer fireman before his death.* If such deceased volunteer fireman shall leave neither widow nor child under the age of eighteen (18) years, then his pension shall terminate at the end of the month prior to the month in which his death occurs.''

In event of death.

Widow's pension.

Guardian of children under 18 years of age.

Maximum—$2,000.

Termination.

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 6. This act shall be in full force and effect from and after its passage and approval.

Approved February 27, 1971

CHAPTER NO. 81

An Act Amending Section 16-3705, R.C.M. 1947, Relating to Qualifications and Tenure of Deputy Sheriffs.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 16-3705, R.C.M. 1947, is amended to read as follows:

"16-3705. **Qualifications of deputy sheriffs, marshals and policemen.** (1) No sheriff of a county, mayor of a city, or other persons authorized by law to appoint special deputies, marshals, or policemen in this state to preserve the public peace and prevent or quell public disturbance, shall hereafter appoint as such special deputies, marshals, or policemen any person who shall not have resided continuously in this state for a period of one year at least, and in the county where such appointment is made for the period of at least six (6) months prior to the date of said appointment; provided, that the provisions of this section shall not apply in cases of such officers summoning a posse forthwith to quell public disturbance or domestic violence.

Qualifications of special deputies, marshals or policemen.

Residency.

Exceptions.

(2) No sheriff shall employ as a deputy any individual who does not possess all the following qualifications:

Qualifications for deputy sheriff.

(a) graduate of an accredited high school or the equivalent thereof;

(b) good moral character;

(c) never been convicted of a felony;

(d) has not within five (5) years immediately preceding his date of employment been affiliated in any manner with a subversive organization;

(e) been examined by a physician licensed to practice in the state of Montana within thirty (30) days immediately preceding his date of employment and has been pronounced in good physical condition.

Subsection (2) of this section shall not be applicable to any deputy sheriff whose term of employment commenced prior to the effective date of this act.

Exceptions.

(3) Any person whose term of employment as a deputy sheriff commences subsequent to the effective date of this act shall serve a one-year probationary period and that during this one-year period the employment of any such deputy may be terminated by the sheriff with or without cause and without recourse to the sheriff under the terms of this act.

One-year probationary period.

(4) It shall be the duty of the sheriff to cause all deputies whose term of employment commenced subsequent to the effective date of this act to attend that

Required attendance at academy.

academy provided for by chapter 52, Title 75, R.C.M. 1947, except that the sheriff may accept reasonable delays in attendance at the academy as shown by the deputy's declared intention of attending. Failure to satisfactorily complete the course offered by said academy shall be deemed cause to terminate a deputy's employment.

Cause for termination.

Termination for cause.

(5) Any deputy sheriff now employed or that may hereafter be employed shall continue in service until relieved of his employment in the manner hereinafter provided and only for one or more of the following specified causes:

(a) conviction of a felony subsequent to the commencement of such employment;

(b) willful disobedience of an order or orders given by the sheriff;

(c) drinking intoxicating liquor while in uniform or while on official duty or being intoxicated in a public place while in uniform or while on official duty;

(d) sleeping while on duty;

(e) incapacity materially affecting ability to perform official duties;

(f) gross inefficiency in the performance of official duties;

(g) participation in any political campaign as a candidate or the solicitation of political support for any candidate for public office.

Sworn statement of causes.

(6) When a sheriff terminates the employment of a deputy he shall at the time of termination cause to be served upon said deputy a statement in writing subscribed and sworn to by the sheriff setting forth the cause or causes for the discharge or termination of the deputy's employment.

Within 30 days application for hearing.

(7) Any deputy sheriff whose employment is terminated from and after the effective date of this act, may within thirty (30) days from the date of the termination of his employment make application to the district court of the county wherein the deputy was employed for a hearing before the court, with or without jury, on the charges resulting in the deputy's termination of employment or discharge. In the event that a deputy prevails at

Reinstatement.

Restoration of rights.

the hearing he shall be entitled to be reinstated as a deputy sheriff at the same salary he received prior to his discharge or termination of employment and he shall also be entitled to any rights that might have accrued to his benefit prior to his discharge or termination of employment, including that salary which he would have received but for the termination."

Approved February 27, 1971

CHAPTER NO. 82

An Act to Subject Corporations to an Income Tax if They Are Not Subject to the Corporation License Tax; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Application of act.

Section 1. It is the intent of the legislative assembly that the corporation license tax shall be applied to all corporations subject to taxation under chapter 15, Title 84, R.C.M. 1947. The income tax provided by this act shall be applied to corporations that are not taxable under chapter 15, Title 84, R.C.M. 1947, but are taxable under an income tax.

"Corporation income tax."

Section 2. This act shall be known as and may be cited as the "Corporation Income Tax" and it shall be administered by the state board of equalization.

Tax on net income for taxable years beginning after December 31, 1970.

Section 3. (1) There is hereby imposed upon every corporation for each taxable year an income tax at the rate specified in section 84-1501, R.C.M. 1947, upon its net income derived from sources within this state for taxable years beginning after December 31, 1970, other than income for any period for which the corporation is subject to taxation under chapter 15, Title 84, R.C.M. 1947, according to or measured by its net income.

Income from sources within this state defined.

(2) Income from sources within this state includes income from tangible or intangible property located in or having a situs in this state and income from any activities carried on in this state, regardless of whether carried on in intrastate, or interstate or foreign commerce.

Offset.

Section 4. There shall be offset against the corporation income tax imposed for any period the amount of